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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,444	06/30/2003	Dieter Steinhauser	028987.52313US	7134
23911	7590	04/26/2004	EXAMINER	
CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300				CHENEVERT, PAUL A
ART UNIT		PAPER NUMBER		
				3612

DATE MAILED: 04/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/608,444	STEINHAUSER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Paul A. Chenevert	3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 November 2003.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-34 is/are rejected.
- 7) Claim(s) 35-38 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 30 June 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>20030630</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Drawings***

2. The drawings are objected to because of the following minor informalities:
  - a. Reference number "50" should be changed to "51" and reference number "51" should be changed to "50" in Figure 2 (see Figures 1 & 7 for correct locations).
  - b. Reference number "72" should be changed to "73" in Figure 9.
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: "39" in Figure 3 and "36" in Figure 6. It is suggested to delete both occurrences.
4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "38" has been used in Figure 6 to designate both the windshield and the forward support panel of the windshield frame (35). It is suggested to replace reference numbers "38" and "38'" with "39" and "39'" in Figure 6 (see above).
5. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Specification***

6. The disclosure is objected to because of the following informalities:
  - a. Paragraph 0018, line 1, "Figure 6" should be changed to "Figure 7".
  - b. Paragraph 0019, line 1, "Figure 1" should be changed to "Figure 2".
  - c. Paragraph 0022, line 5, "facing opposite driving direction C" should be changed to "a direction opposite the vehicle forward driving direction C".
  - d. Paragraph 0023, line 4, "facing opposite driving" should be changed to "a direction opposite the vehicle forward driving".
  - e. Paragraph 0024, line 8, "43, 44" should be changed to "42, 43".
  - f. Paragraph 0024, line 8, "the first panel section 20 and" should be deleted.
  - g. Paragraph 0024, line 9, "21" should be changed to "23".
  - h. Paragraph 0024, line 10, "43" should be changed to "42".
  - i. Paragraph 0025, line 11, "66" should be changed to "66'".
  - j. Paragraph 0026, lines 6 & 12, "72" should be changed to "73".

Appropriate correction is required.

***Claim Objections***

7. Claims 5-7, 25, 29, & 30-38 are objected to because of the following informalities:
  - a. Claim 5, line 3, "a" should be inserted after "opposite".
  - b. Claim 25, line 2, "and/or" should be changed to "and".
  - c. Claim 29, line 5, "joint" should be changed to "joining".
  - d. Claim 30, line 6, "joint" should be changed to "joining".

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e. Claim 35, line 2, "the passenger seat" should be changed to "passenger seats".

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

9. Claims 1-28 & 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. Regarding claim 1, the phrase "such as" on line 2 renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

b. Regarding claim 25, the phrase "or the like" on line 2 renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

c. Claim 32 recites the limitation "the first panel section and on the second panel section" on line 2. There is insufficient antecedent basis for this limitation in the claim. It is suggested to introduce the claim limitations of claim 3 into claim 32.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1, 2, 5, & 26-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Naert.

Naert discloses a structure for a passenger motor vehicle, comprising a panel structure made of Carbon Fiber Reinforced Plastic CFRP (non-metallic material), wherein the structure forms a passenger cell, of which the panel structure comprises: a front panel structure; a rear panel structure; a floor structure (12) joining the front and rear panel structures; a center tunnel extending between the front and rear panel structures; and longitudinal girders that extend between the panel structures and border the floor structure. In regards to claim 5, the rear panel structure includes a vertical panel section and a horizontal panel section extending rearwardly from the vertical panel section and located directly in front of the rear wheel area.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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13. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

14. Claims 3, 4, 9, & 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Naert in view of Bartesch et al.

Naert discloses a panel structure, as described above. However, Naert does not expressly disclose that the front panel structure includes a vertical panel section and horizontal panel section extending rearwardly from the vertical panel section.

Bartesch et al. disclose a structure for a passenger motor vehicle, comprising a panel structure integrally made of metallic material, wherein the structure forms a passenger cell, of which the panel structure comprises: a front panel structure (end wall 14) including a vertical panel section (vertical area 18) and horizontal panel section (plate 28) extending rearwardly from the vertical panel section; a rear panel structure (rear partition 52); a floor structure (10) joining the front and rear panel structures; a center tunnel extending between the front and rear panel structures; and longitudinal girders (side walls 32) that extend between the panel structures and border the floor structure. In regards to claim 2, the panel sections border a leg compartment (front foot area 12). In regards to claims 9 & 10, a windshield frame (see Figure 4) is structurally joined to the front panel structure.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the CFRP front panel structure of Naert, to employ a rearwardly extending horizontal panel section (also made of CFRP), as taught by Bartesch et al.

The suggestion/motivation for doing so would have been to provide a better crumple zone, as is desired in this vehicle invention.

Therefore, it would have been a desirable and thus a *prima facie* obvious modification of the panel structure by combining a horizontal panel section with the front panel structure to obtain the invention as specified in claim 3, as taught by the prior references' motivation, and not hindsight from the applicants disclosure.

15. Claims 9, 12, & 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Naert in view of Rackham.

Naert discloses a panel structure, as described above. However, Naert does not expressly disclose that a windshield frame includes a metal pillar secured within a hollow space.

Rackham discloses a structure for a passenger motor vehicle, comprising a panel structure (chassis 10) made of metal (Aluminum, column 2, line 15), wherein the structure forms a passenger cell, of which the panel structure comprises: a front panel structure (front edges of the two sills 11 & 12); a metallic windshield frame (cross member 13 and two pillar support structures 14 & 15) structurally joined to the front panel structure; and longitudinal girders. In regards to claim 12, hollow spaces of columns (pillar support structures 14 & 15) of the windshield frame are provided with additional support columns (A-pillars 16 & 17) made of Carbon Fiber Reinforced Plastic CFRP (non-metallic material) and joined (resinous material 20 with the front panel structure.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the CFRP front panel structure of Naert, to employ a windshield frame (also made of CFRP), having a metallic A-pillar, as taught by Rackham.

The suggestion/motivation for doing so would have been to provide a secure bond between metal and CFRP materials, as is desired in this vehicle invention.

Therefore, it would have been a desirable and thus a *prima facie* obvious modification of the panel structure by combining a metallic A-pillar with the front panel structure to obtain the invention as specified in claims 9 & 31, as taught by the prior references' motivation, and not hindsight from the applicants disclosure.

16. Claims 19, 33, & 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Naert in view of Genma et al.

Naert discloses a panel structure, as described above, including a metallic roll bar mounting joined to the rear panel structure. However, Naert does not expressly disclose that the roll bar mounting is non-metallic.

Genma et al. disclose a structure for a passenger motor vehicle, comprising a panel structure made of synthetic resin (non-metallic material), wherein the structure forms a passenger cell, of which the panel structure comprises: a front panel structure; a rear panel structure; a floor structure joining the front and rear panel structures; a non-metallic roll bar mounting structurally joined to the rear panel structure; and longitudinal girders that extend between the panel structures and border the floor structure.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the metallic roll bar mounting of Naert, to employ a non-metallic roll bar mounting (also made of CFRP), as taught by Genma et al.

The suggestion/motivation for doing so would have been to provide a lighter vehicle, as is desired in this vehicle invention.

Therefore, it would have been a desirable and thus a *prima facie* obvious modification of the panel structure by combining a non-metallic roll bar mounting with the rear panel structure to obtain the invention as specified in claims 19 & 34, as taught by the prior references' motivation, and not hindsight from the applicants disclosure.

***Allowable Subject Matter***

17. Claims 6-8, 11, 13-18, 20-25, & 32 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

18. Claims 35-38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

19. The following is a statement of reasons for the indication of allowable subject matter: the prior art does not show or make obvious Applicant's rearward gas tank cavity, pedal thickening area, windshield frame flanges, support column retainer plate, two single non-metallic roll bars, or support strut.

***Conclusion***

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul A. Chenevert whose telephone number is 703-305-0837. The examiner can normally be reached on Mon-Fri (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on 703-308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paul A. Chenevert  
Examiner  
Art Unit 3612

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*[Handwritten signature]* 4/19/04